

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Oct 22, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

-vs-

CRAIG ALLEN MORGENSTERN,  
Defendant.

No. 2:14-CR-0161-WFN-1

ORDER

Pending before the Court is Defendant's Motion for COVID Related Compassionate Release. ECF No. 228. Defendant has not exhausted his claim with the Bureau of Prisons [BOP], because he indicates that the Warden at USP Tucson will not accept requests to release. For the purposes of this Motion, the Court will excuse the exhaustion requirement due to impossibility based on Mr. Morgenstern's allegation. However, the Court notes that the Forrest Declaration he refers to was not included in the documents submitted to the Court.

Mr. Morgenstern must demonstrate that "(i) extraordinary and compelling reasons warrant such a reduction; or (ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) . . . and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g)." 18 U.S.C. § 3582(c)(1)(A). Mr. Morgenstern is not at least 70 years of age.

Mr. Morgenstern has not demonstrated extraordinary or compelling reasons warranting a sentence reduction. He claims to suffer from anti-phospholipid syndrome, hypertension, pulmonary embolism, obesity, and obstructive sleep apnea. Medical records submitted by the Government support some, but not all, of these claimed conditions.

1 Though subject to change due to the novelty of COVID-19, the CDC recognizes some of  
2 these conditions may increase risk of serious illness and death from COVID-19.

3 Mr. Morgenstern poses a danger to the public. As more thoroughly described in the  
4 Government's response, Mr. Morgenstern used his training as a doctor and abused his  
5 friends' trust to sexually molest multiple young boys. When concerned he would be  
6 discovered, he attempted to destroy evidence of his crimes. His long-term pattern of  
7 behavior as well as the harm to the community caused the Court to impose 12 life sentences.  
8 Due to the egregious nature of the crimes and Mr. Morgenstern's actions, the 18 U.S.C.  
9 § 3553(a) factors support continued incarceration. Mr. Morgenstern has not demonstrated  
10 extraordinary or compelling reasons supporting release. The Court has reviewed the file and  
11 Motion and is fully informed. Accordingly,

12 **IT IS ORDERED** that:

13 1. Defendant's Motion for COVID Related Compassionate Release, filed June 22,  
14 2020, **ECF No. 228**, is **DENIED**.

15 2. Defendant's Motion for Injunction, filed July 28, 2020, **ECF No. 230**, is  
16 **DENIED**. Defendant requests that the Court release all "firearms, ammunition, accessories,  
17 and items taken from the gun safe," and "photographic equipment confiscated that had no  
18 evidentiary value." As a felon, Mr. Morgenstern is now prohibited from possessing firearms  
19 and ammunition. Further, subject to the Court's Order Declaring Preliminary Order of  
20 Forfeiture Final, all digital devices and cameras were forfeited to the Government regardless  
21 of evidentiary value. ECF No. 189.

22 The District Court Executive is directed to file this Order and provide copies to  
23 counsel.

24 **DATED** this 22nd day of October, 2020.

25 

26 WM. FREMMING NIELSEN  
27 SENIOR UNITED STATES DISTRICT JUDGE  
28

10-19-20